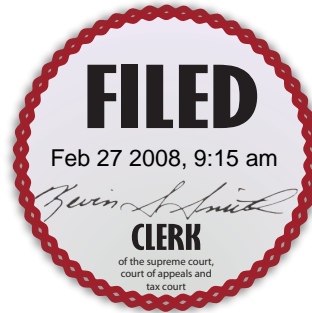


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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IN THE MATTER OF J.R.,  
  
Appellant-Defendant ,

vs.

STATE OF INDIANA,  
  
Appellee-Plaintiff.

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No. 82A01-0707-JV-290

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APPEAL FROM THE VANDERBURGH SUPERIOR COURT, JUVENILE DIVISION  
The Honorable Brett Niemeier, Judge  
Cause No. 82D01-0703-JD-00117

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**February 27, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

J.R. was adjudicated a delinquent child for committing battery, which would be a Class A misdemeanor if committed by an adult. J.R. appeals and argues that the evidence is insufficient to establish that he committed battery. We affirm.

### **Facts and Procedural History**

On or about February 18, 2007, J.R., who was seventeen-years-old, was involved in an altercation, with his girlfriend V.K., V.K.'s eleven-year-old sister, J.K., and their friend, J.S. The girls told J.R. to leave them alone but he refused. During the argument, J.R. began waving his arms around, and J.S. grabbed his arm to prevent him from hitting one of them. J.R. abruptly removed his arm from J.S.'s grasp, and then punched J.K. in the head with his fist. Tr. pp. 20, 36-37, 48. J.K. fell to the ground, which caused her to scrape her leg. She also suffered a minor injury to her head.

On March 20, 2007, the State filed a petition alleging that J.R. was a delinquent child for committing battery, which would be a Class A misdemeanor if committed by an adult. After a hearing held on May 22, 2007, the juvenile court found that J.R. had committed battery. On that same day, the court entered a dispositional order. J.R. was given a suspended commitment to the Department of Correction and placed on probation for ninety days. J.R. now appeals. Additional facts will be provided as necessary.

### **Discussion and Decision**

J.R. argues that the evidence is insufficient to support the delinquency adjudication. When the State seeks to have a juvenile adjudicated as a delinquent for committing an act which would be a crime if committed by an adult, the State must prove every element of the crime beyond a reasonable doubt. J.S. v. State, 843 N.E.2d 1013,

1016 (Ind. Ct. App. 2006), trans. denied. In reviewing a juvenile adjudication, this court will consider only the evidence and reasonable inferences supporting the judgment and will neither reweigh evidence nor judge the credibility of the witnesses. Id. If there is substantial evidence of probative value from which a reasonable trier of fact could conclude that the juvenile was guilty beyond a reasonable doubt, we will affirm the adjudication. Id.

The State was required to establish that J.R. knowingly or intentionally touched J.K. in a rude, insolent, or angry manner, which resulted in bodily injury to J.K. See Ind. Code § 35-42-2-1 (2004 & Supp. 2007). J.R. concedes that he hit J.K. in the head and does not claim that the State failed to establish that J.K. was injured. Instead, he argues that his actions were not intentional, or in the alternative, that he acted in self-defense.

“A person engages in conduct ‘intentionally’ if, when he engages in the conduct, it is his conscious objective to do so.” See Ind. Code § 35-41-2-2 (2004). Moreover, “[a] person engages in conduct ‘knowingly’ if, when he engages in the conduct, he is aware of a high probability that he is doing so.” J.R. asserts that as he was freeing his arm from J.S.’s grasp, he accidentally struck J.K. Br. of Appellant at 8.

During the altercation, J.R. was angry and calling the girls names. J.K. and J.S. testified that J.R. punched J.K. in the head with his fist. Moreover, after he punched J.K., J.R. ran from the scene. Tr. p. 49. This evidence is sufficient to support the court’s determination that J.R. intentionally or knowingly struck J.K.

Furthermore, there is no evidence to support J.R.’s claim of self-defense. In order to prevail on a claim of self-defense, J.R. had to show that he: acted without fault, was in

a place where he had a right to be, and was in reasonable fear or apprehension of bodily harm. See Henson v. State, 786 N.E.2d 274, 277 (Ind. 2003). Not only did J.R. instigate the altercation by refusing to leave the girls alone, there is no evidence that he had a reasonable fear of death or great bodily harm. The evidence established that J.S. simply grabbed his arm to try to prevent him from striking either herself or J.K. Moreover, J.R. did not argue self-defense at trial.

For these reasons, we conclude that the evidence is sufficient to support the delinquency adjudication.

Affirmed.

FRIEDLANDER, J., and ROBB, J., concur.